

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Greater Houston Transportation Company;
Fiesta Cab Company; Houston Transportation
Services, LLC; National Cab Co., Inc.;
Pasadena Taxi Co., Inc.; American Memento
Group LLC; Atlas Limousine LLC; CTI
Transportation, LLC; Liban Incorporated;
Avanti Int'l Transportation, Ltd.; First Priority
Transportation, LLC; Lone Star Executive
Limousine, LLC; Dawit Sahle; Mohamed
Samater; Mersha Ayele; Moses A. Tesfay;
Melaku Shumie; Abraham Tarkegne; Kidane
Ghebreslassie; Mohamed Didi; Champion Cab
Co.; Greater San Antonio Transportation
Company; Enterprise Transportation Inc.,

Plaintiffs,

v.

Uber Technologies, Inc.; and Lyft, Inc.,

Defendants.

CIVIL ACTION NO. 14-941

DECLARATION OF ANDREW MACDONALD

I, Andrew Macdonald, hereby declare as follows:

1. I am at least eighteen years old and, if called to testify as a witness, can testify competently to the facts set forth in this declaration except when those matter and facts are stated on information and belief, and, as to those statements, to the extent permitted by the Federal Rules of Evidence.
2. I am an employee of Uber Technologies, Inc. and have been an employee of Uber since May 2012.

3. Since May 2013, I have been Uber's Regional General Manager, Midwest ("Regional GM").

How Uber Works

4. Uber is a software company based in San Francisco, California. Uber does not own vehicles or employ drivers. Rather, Uber has developed and offers to the public an easy-to-use smartphone application ("App") that allows a person to request transportation from several types of third-party transportation providers, such as a licensed driver of a taxicab or limousine, among other options. Uber's innovative App provides a convenient alternative to the traditional street hail or telephone call for people seeking transportation.

5. When a customer requests transportation through Uber's App, the customer's smartphone sends the request and the location of the customer to the nearest driver partnered with Uber. The driver then has the option to either accept or reject the request. In deciding whether to accept or reject the request, the driver knows only the customer's location and the customer's rating (drivers rate each customer after a ride, giving each customer between one and five stars; customers also rate drivers after each ride). The driver does not know the customer's destination, age, race, economic status, or any other information about the customer, other than the customer's location and rating.

6. Once a driver accepts the customer's request, the driver picks up the customer and transports the customer to his or her destination. Uber's App automatically charges the customer's credit card and, after retaining a small fee, sends the remainder of the payment to the driver. Customers without credit cards can pay automatically by linking their checking accounts to the App by using a free service provided by PayPal.

7. Customers without smartphones can also take advantage of Uber's service by accessing the website "m.uber.com."

8. Uber currently provides its service in 92 cities worldwide.

Uber's Services in Houston and San Antonio

9. Uber began providing its service in Houston on February 20, 2014 and in San Antonio on March 28, 2014.

10. Currently, there are 350 drivers in Houston and 154 drivers in San Antonio that are eligible to use Uber's App.

11. I have researched whether and to what extent Uber has received tickets or citations for its operations in Houston and San Antonio. My research included reviewing relevant documents and speaking with my colleagues at Uber in San Francisco and in Texas.

12. Based on my research, I am aware of seven citations from the City of Houston given to third-party drivers for their use of Uber's App. I am unaware of any citations issued to Uber from the City of Houston. I am unaware of any citations issued to Uber or drivers who use Uber's App related to operations in San Antonio. Uber has not received a cease-and-desist letter regarding its operations from either the City of Houston or the City of San Antonio.

Uber's Insurance for uberX

13. Uber, through one of its subsidiaries, Rasier, LLC ("Rasier"), holds an insurance policy providing coverage for "uberX" rides. uberX is a transportation request option in the Uber App that connects customers to drivers who are not commercially licensed taxicab or limousine drivers, but who use their personal vehicles to provide transportation requested through Uber's App. This type of service is called a "transportation network service" in the City of Houston's newly proposed regulations, which explicitly permit services like uberX to operate,

subject to certain permitting, licensing, and other requirements. The proposed regulations are available at

http://www.houstontx.gov/ara/regaffairs/Chapter_46_Vehicles_for_Hire_Proposed_Amendments_April_2014.pdf (“Houston Proposed Regulations”).

14. The insurance policy applicable to uberX rides (i.e., transportation network service) provides \$1 million in liability insurance per incident, which covers the driver’s liability. This policy is excess to the driver’s own policy, but it acts as primary insurance if the driver’s policy is not available for any reason, covering from the first dollar. It also covers \$1 million of uninsured/underinsured motorist coverage per incident for bodily injury. Finally, if a driver’s personal comprehensive and collision insurance does not apply, the policy covers \$50,000 in damage to the driver’s vehicle. All of these policies apply starting from the driver’s acceptance of a trip request through the App, through the completion of the trip. This coverage meets the requirements of the City of Houston’s proposed regulations. Houston Proposed Regulations § 46-458(b); Houston Proposed Regulations, Art. IX, Transportation network company permit - Insurance required, (c)

15. Uber also provides insurance for drivers on the uberX platform between trips. Although most personal liability insurance will apply even in the absence of the between-trip coverage, Uber provides an additional policy that covers driver liability for bodily injury up to \$50,000 per individual per accident with a total of \$100,000 per accident, and up to \$25,000 for property damage. This policy is contingent to a driver’s personal insurance policy, meaning it will only pay if the personal auto insurance completely declines or pays nothing. Uber has publicly posted its insurance policy here, along with an explanation of the coverage: blog.uber.com/ridesharinginsurancepolicy.

16. In addition to meeting Houston's proposed regulations for "transportation network services" like uberX, this coverage far exceeds the amounts that Houston requires for taxicab and limousine companies. The City of Houston requires taxicabs to hold the following insurance: \$30,000 for bodily injury or death of one person per accident; \$60,000 for bodily injury or death of two or more people; and \$25,000 for property damage. Houston Code of Ordinances § 46-67; Tex. Transp. Code Ann. § 601.072(a-1). For limousines, the City of Houston requires \$250,000 for bodily injury or death of one person per accident; \$500,000 for bodily injury or death of two or more people; and \$100,000 for property damage. Houston Code of Ordinances § 46-238.

17. When users of the Uber App select transportation options other than that provided by drivers on uberX, such as taxicab or limousine options, the commercial insurance provided by the taxicabs and limousines would apply.

The Individuals Who Request Transportation Using Uber's App

18. In conjunction with another case in which taxicab companies unsuccessfully sought a preliminary injunction against Uber in the Northern District of Illinois in Chicago, I researched the extent to which Uber rides originated in areas of Chicago that city regulators had designated as "underserved." Based on our ride data, I determined that approximately 40% of rides in Chicago originated in underserved neighborhoods.

19. I have not yet had the time or opportunity to prepare a similar study for Houston or San Antonio.

The Drivers for the uberX Platform

20. I commissioned a study, which I published on Uber's blog, that addresses the economic opportunities provided to individuals who drive using the uberX platform. The results

of the study show that drivers in Chicago who use uberX, particularly drivers from lower-income neighborhoods, earn more on average than the other people in their neighborhoods. For example, when you sum the fares earned by drivers and subtract the fees they pay to Uber for its software and services, drivers in Chicago using uberX earn more than \$16 per hour, almost twice the minimum wage. 59% of drivers who use uberX in Chicago earn more than the median hourly wage in their particular neighborhoods.

21. Most strikingly, for drivers from lower-income neighborhoods, where the median hourly wage is less than \$15 per hour, 92% of drivers using uberX earn more than the median hourly wage.

22. I posted the results of this study online on March 12, 2014. It is available at <http://blog.uber.com/ChiDriverStudy>. I have not yet had the time or opportunity to perform a similar analysis on the drivers from Houston and San Antonio.

Background Checks for Drivers Using the uberX Platform

23. Uber performs background checks for all drivers who use the uberX platform, including the drivers in Houston and San Antonio. The background checks include investigation of Department of Motor Vehicles records as well as county, state, and national criminal records.

Uber's Surge Feature

24. Uber's App has what is called "surge pricing." During peak usage hours, the price for transportation services requested through Uber's App increases or "surges." The purpose of surge pricing is to increase the supply of drivers on the road in order to meet the increased transportation requests of customers. By increasing the price of the transportation when customer demand is high, drivers are incentivized get in their cars or to travel to the areas

of the city where surge pricing applies and accept transportation requests. Surge pricing therefore helps customers receive transportation when they need it most.

25. Surge prices are clearly disclosed to users of the App. When surge pricing is active, users are first notified that surge pricing applies and then, before they can request transportation, they are required to manually enter in the surge-price multiple (e.g., 1.5 times, 2.0 times, etc.) into the App.

26. Surge pricing is not currently employed in San Antonio. It has been employed in Houston, and to date, less than 5% of rides in Houston have used surge pricing.

27. I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 20, 2014 in Chicago, IL

By 

Andrew Macdonald